UNITED STATES PATENT AND TRADEMARK OFFICE

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10/748,685	12/31/2003	George Fitzmaurice	1252.1083	1979

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EXAMINER
NGUYEN, LE V

ART UNIT	PAPER NUMBER
2174	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	10/748,685	FITZMAURICE ET AL.
	Examiner	Art Unit	
	Le Nguyen	2174	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11/8/06*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

    4a) Of the above claim(s) *19-24 and 26* is/are withdrawn from consideration.

5)☒ Claim(s) *8 and 17* is/are allowed.

6)☒ Claim(s) *1-7,9-16,18,25 and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *11/8/06*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   This communication is responsive to an amendment filed 11/8/06.

2.   Claims 1-27 are pending in this application; and, claims 1, 4, 6, 8, 17, 18, 25 and 27 are independent claims. Claims 1, 4, 6, 8, 9, 12, 13, 16-18 and 25 have been amended; claim 27 has been added; claims 8 and 17 have been allowed; and, claims 19-24 and 26 have been withdrawn from consideration. This action is made Final.

3.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

4.   Claim 27 is objected to because of the following informalities: "a menu control associated with and for each layer" in line 4 of claim 7 appears to contain grammatical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5.   Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

    Claim 15 recites the limitation "one of the controls" in line 1 of claim 15. There is insufficient antecedent basis for this limitation in the claim. In claim 6 from which claim 15 depends, only a single control is provided.

Claim Rejections - 35 USC § 102

6.   Claims 1, 4, 5, 25 and 27 are rejected under 35 U.S.C. 102(a) as being

anticipated by Screen Dumps of Macromedia Flash MX ("Macromedia Flash").

As per claim 1, Macromedia Flash teaches a layer editor interface comprising

layer representation graphic having layer names (figs. 2-4; *e.g. "Layer 1" and "square"*)

and a pop-up menu control activatable for each layer from within the layer

representation and that allows the layer to be edited (figs. 2-4; *for each layer, controls*

such as controls 38 and 40 are activatable, from within the layer representation, to

display a pop-up menu such as pop-up menu 50).

As per claim 4, Macromedia Flash teaches a layer editor interface comprising

layer representation graphics having layer names and selection targets with a box

shape (figs. 2-4; *depicted are layer names with a box shape such as layer box 26,*

"Layer 1" and "square") and controls associated with the representation graphics that

are coincident with the targets (fig. 2; *controls 38 and 40*).

As per claim 5, Macromedia Flash teaches a layer editor interface wherein a

status indicator overlaps the selection targets (figs. 2-4; *menu target area overlap status*

indicators such as status indicator 30 (or lock icon, not shown)).

As per claim 25, Macromedia Flash teaches an apparatus comprising a display

and a processor displaying a layer editor interface on the display, the interface

comprising a layer representation graphic having a user entered graphic name (figs. 2

and 4; page 1) and a corresponding coincident control (figs. 2 and 4; *"Properties" menu item*).

As per claim 27, Macromedia Flash teaches a layer editor interface comprising layer representation graphics representing graphic layers having displayed layer names descriptive of the content of the layers and a menu control associated with each layer that allows the layer to be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable, from within the layer representation, to display a pop-up menu such as pop-up menu 50*).

Claim Rejections - 35 USC § 103

7.   Claims 2, 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of Buxton et al. ("Buxton").

As per claim 2, although Macromedia Flash teaches a layer editor interface comprising a graphical representation having layer names (figs. 2-4; *e.g. "Layer 1" and "square"*) and a pop-up menu control activatable for each layer, the layer editor interface further comprising performing selection or operations with underlying menus where a) activation of a control via a click selects a corresponding layer, and b) execution of another click selects an operation on the layer (figs. 2-4; *i.e. activation of a control via a "click" selects a corresponding layer for an editing operation on the layer*), Macromedia Flash does not explicitly disclose performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation. Buxton teaches performing

selections or operations with underlying menus where a mark simultaneously selects a

graphical representation and selects an operation on the graphical representation (fig.

11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time

of the invention to incorporate the method of Buxton with the modified method of

Macromedia Flash in order to provide a straightforward way to embed multiple

command attributes into a single mark.

As per claim 3, the modified Macromedia Flash teaches a layer editor interface

wherein the marking menu control includes selections for new layer (Macromedia Flash:

figs. 2-4; page 3; *"Insert > Layer"*), rename layer (Macromedia Flash: figs. 2-4; page 1;

"Properties"), delete layer (Macromedia Flash: figs. 2-4; page 1; *"Delete Layer"*), merge

layer (Macromedia Flash: figs. 2-4; page 3; *wherein the active layer is combined with*

the layer below the active layer so that the content of the layers are combined), lock

layer (Macromedia Flash: figs. 2-4), hide layer (Macromedia Flash: figs. 2-4) and

position layer (Macromedia Flash: figs. 2-4; page 2; *comprises a mode in which*

dragging on the layer itself moves the currently selected layer in 2 dimensions).

Although the modified Macromedia Flash further teaches an additional selection that

includes clearing the contents of the active layer (Macromedia Flash: figs. 2-4; *via Edit >*

Cut or Edit > Clear selection), the modified Macromedia Flash does not explicitly

disclose additional selections to be included in the pop-up menu/marking menu control.

Official Notice is taken that including additional selections within a pop-up

menu/marking menu control is well known in the art. It would have been obvious to an

artisan at the time of the invention to incorporate additional selections to be included in

the pop-up menu/marking menu control with the method of the modified Macromedia

Flash so that the number of items in the menu can be increased while still permitting

rapid selection of the menu items.

As per claim 18, although Macromedia Flash teaches a layer editor comprising a

linear list of layers and a menu accessible and activatable from within the layer list and

providing layer editing functions (Macromedia Flash: figs. 2-4; pages 1-3; *for each layer,*

controls such as controls 38 and 40 are activatable, from within the layer representation,

to display a pop-up menu such as pop-up menu 50), Macromedia Flash does not

explicitly disclose the menu being one of a marking type. Buxton teaches a menu being

one of a marking type (fig. 11; col. 9, lines 27-28 and 56-67). It would have been

obvious to an artisan at the time of the invention to incorporate the method of Buxton

with the method of the modified Macromedia Flash in order to provide a straightforward

way to embed multiple command attributes into a single mark.

8.   Claims 6, 7, 10, 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in

view of Bernstein et al. ("Bernstein").

As per claim 6, although Macromedia Flash teaches an interface comprising

layer representation graphic having layer names inputable by a user and displayable

(figs. 2 and 4; page 1) and a control associated with the representation graphic

activable from within the layer representation and that allows a corresponding layer to

be edited (figs. 2-4; *for each layer, controls such as controls 38 and 40 are activatable,*

from within the layer representation, to display a pop-up menu such as pop-up menu

50), Macromedia Flash does not explicitly disclose input by a user that is displayable as

hand drawn strokes. Bernstein teaches input by a user that is displayable as hand

drawn strokes (Abstract; figs. 10-11). It would have been obvious to an artisan at the

time of the invention to incorporate the method of Bernstein with the method of

Macromedia Flash given that pen-based systems are particularly well-suited for mobile

users due to the ease of use and portability of pen peripherals and that handwritten ink

are often times more recognizable to the user of the pen-based system, given that

handwriting recognition software are prone to errors.

As per claim 7, the modified Macromedia Flash teaches an interface comprising:

a drawing dialog box invoked by the control and allowing the user to input the layer

names (Macromedia Flash: figs. 2-4; page 1; Bernstein: sections [0039]-[0041]).

As per claim 10, although the modified Macromedia Flash teaches an interface

wherein an active layer is highlighted with shading surrounding the name (Macromedia

Flash: figs. 2-3), the modified Macromedia Flash does not explicitly disclose highlighting

with a frame surrounding the name. Official Notice is taken that highlighting with a frame

surrounding a name is well known in the art. It would have been obvious to an artisan at

the time of the invention to incorporate the method of highlighting with a frame

surrounding a name with the method of the modified Macromedia Flash as an

implementation preference.

As per claim 12, the modified Macromedia Flash teaches an interface wherein

each layer graphic has an indicator indicating whether a corresponding drawing layer is

hidden or visible (Macromedia Flash: figs. 2-4; *in the eye icon column, indicators "·"*

indicate that the layers are visible).

As per claim 13, the modified Macromedia Flash teaches an interface wherein

each layer graphic has an indicator indicating whether a corresponding drawing layer is

one of hidden or locked (Macromedia Flash: figs. 2-4; *from left to right, first "·"*

(depicted) indicator indicates that the layers are visible, while "X " (not shown) indicator

indicates that the layers are hidden; and, second "·" indicator (depicted) indicates that

the layers are unlocked, while a lock icon indicator (not shown) in place of the "·"

indicator indicates that the layers are locked).

As per claim 14, the modified Macromedia Flash teaches an interface wherein a

background layer has a text label (Macromedia Flash: fig. 4; *background layer "Layer*

2").

As per claim 16, the modified Macromedia Flash teaches an interface wherein

making a marking gesture in association with the layer representation graphic initiates a

function with respect to one or more of the layers (Macromedia Flash: figs. 2-4, pages

1-3; Bernstein: section [0039]).

9.   Claims 9, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Screen Dumps of Macromedia Flash MX ("Macromedia Flash") in view of

Bernstein et al. ("Bernstein") as applied to claim 6, and further in view of Buxton et al.

("Buxton").

As per claim 9, although the modified Macromedia Flash teaches an interface

wherein the control invokes a menu of a layer editing menu type (Macromedia Flash:

figs. 2-4, pages 1-3), the modified Macromedia Flash does not explicitly disclose a

menu being of a marking menu type. Buxton teaches a menu being of a marking menu

type (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at

the time of the invention to incorporate the method of Buxton with the method of the

modified Macromedia Flash in order to provide a straightforward way to embed multiple

command attributes into a single mark.

As per claim 11, although the modified Macromedia Flash teaches an interface

wherein each layer control comprises a pop-up menu control for layer editing

comprising performing selection or operations with underlying menus where a)

activation of a control via a click selects a corresponding layer, and b) execution of

another click selects an operation on the layer (figs. 2-4; *i.e. activation of a control via a*

"click" selects a corresponding layer for an editing operation on the layer), the modified

Macromedia Flash does not explicitly disclose performing selections or operations with

underlying menus where a mark simultaneously selects a graphical representation and

selects an operation on the graphical representation, i.e. marking menu. Buxton

teaches a marking menu that performs selections or operations with underlying menus

where a mark simultaneously selects a graphical representation and selects an

operation on the graphical representation (fig. 11; col. 9, lines 27-28 and 56-67). It

would have been obvious to an artisan at the time of the invention to incorporate the

method of Buxton with the method of the modified Macromedia Flash in order to provide

a straightforward way to embed multiple command attributes into a single mark.

The modified Macromedia Flash further teaches a graphical representation

having layer names and additional controls associated with the graphical representation

such as a move control for moving a position of a layer in a layer editor stack

(Macromedia Flash: figs. 2-4; *via a drag operation in the timeline*) and a transparency

control controlling the transparency of a corresponding drawing layer (Macromedia

Flash: figs. 2-4; *via Windows > Panel > Effect*). However, Macromedia Flash does not

explicitly disclose additional controls being activatable from within the graphical

representation. Official Notice is taken that including additional controls being

activatable from within the graphical representation (or additional controls within a menu

item) is well known in the art. It would have been obvious to an artisan at the time of the

invention to incorporate additional controls within a menu item with the method of the

modified Macromedia Flash so that the number of controls in the menu can be

increased while continually providing for rapid selection.

As per claim 15, although the modified Macromedia Flash teaches an interface

comprising a graphical representation having layer names (figs. 2-4; *e.g. "Layer 1" and*

"square") and a pop-up menu control activatable for each layer, the layer editor

interface further comprising performing selection or operations with underlying menus

where a) activation of a control via a click selects a corresponding layer, and b)

execution of another click selects an operation on the layer (figs. 2-4; *i.e. activation of a*

control via a "click" selects a corresponding layer for an editing operation on the layer),

the modified Macromedia Flash does not explicitly disclose performing selections or

operations with underlying menus where a mark simultaneously selects a graphical

representation and selects an operation on the graphical representation. Buxton teaches performing selections or operations with underlying menus where a mark simultaneously selects a graphical representation and selects an operation on the graphical representation (fig. 11; col. 9, lines 27-28 and 56-67). It would have been obvious to an artisan at the time of the invention to incorporate the method of Buxton with the method of the modified Macromedia Flash in order to provide a straightforward way to embed multiple command attributes into a single mark.

Response to Arguments

10.   Applicant's arguments with respect to claims 1, 2, 4, 6, 9, 10, 11, 16, 18 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lopresti et al. (US 5,809498) teach a method of locating a penstroke sequence in a computer.

Kurtenback (US 5,926,178) teaches a display and control of menus with radial and linear portions.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §

706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquires

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is **(571) 272-4068**. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at (571) 272-4063.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

LVN
Patent Examiner
January 17, 2007

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